

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TEWODROS TATO,

Plaintiff,

v.

NORTH SEATTLE COMMUNITY
COLLEGE,

Defendant.

Case No. C10-1529-JCC

ORDER

This matter comes before the Court on the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge (Dkt. No. 7) and Plaintiff's multiple requests for extensions of time to file an amended complaint (Dkt. Nos. 8, 9, and 12).

Plaintiff, proceeding in forma pauperis, filed an employment-discrimination complaint under Title VII of the Civil Rights Act. (Dkt. No. 1.) The Court concluded that Plaintiff's complaint suffered several legal deficiencies but granted Plaintiff leave to amend until October 29, 2010. (Dkt. No. 5.) In his first motion for an extension of time to file an amended complaint, Plaintiff sought an extension to November 9, 2010. (Dkt. No. 8.) In his later "motion for reconsideration," in response to the magistrate judge's recommendation of dismissal, Plaintiff said he would file an amended complaint by November 24, 2010. (Dkt. No. 9.) The Court granted Plaintiff an extension of time to file an amended complaint, giving

1 Plaintiff until December 8, 2010. (Dkt. No. 10.) Plaintiff thereafter notified the Court, without
2 requesting an extension of time, that he would file an amended complaint by December 10,
3 2010. (Dkt. No. 11.) Plaintiff has not yet filed an amended complaint; instead, on January 3,
4 2011, Plaintiff filed a letter saying that he is “having difficulties putting [his] case together.”
5 (Dkt. No. 12.) Plaintiff included with his letter over 800 pages of documents to “give [the
6 Court] an idea about my case.” (*Id.*) The Court concludes Plaintiff has not submitted a
7 sufficient amended complaint despite more than ample time to do so. Accordingly, the Court
8 dismisses Plaintiff’s action with prejudice.

9 In the magistrate judge’s order granting Plaintiff leave to file an amended complaint,
10 the Court identified three specific deficiencies and explained how Plaintiff could fix those
11 deficiencies. Specifically, the Court explained that Plaintiff had not alleged that he had first
12 submitted a Charge of Discrimination to the Equal Employment Opportunity Commission
13 (“EEOC”), a requirement for Title VII relief. (Dkt. No. 5 at 1.) The order also explained that
14 Plaintiff’s complaint did not allege that his employer discriminated against him on the basis of
15 race, color, religion, national origin, or sex, or provide any other basis for Title VII relief. (*Id.*
16 at 2–3.) Finally, the order explained that even if Plaintiff filed a charge with the EEOC, he
17 must have filed his civil complaint within ninety days of receipt of his “notice of right to sue”
18 letter. (*Id.* at 3.) It should not have taken over three months (and counting) to submit an
19 amended complaint addressing these deficiencies.

20 Therefore, in the absence of an amended complaint, the Court ADOPTS the Report and
21 Recommendation (Dkt. No. 7). The complaint provides no allegation that Plaintiff first
22 submitted a Charge of Discrimination to the EEOC or that he timely filed his complaint in this
23 Court.¹ See 29 C.F.R. § 1601.28. Moreover, the complaint makes no allegation that Defendant
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25 ¹ Among Plaintiff’s several hundred pages of documents submitted to the Court without
26 explanation, the Court identified what appears to be Plaintiff’s “notice of right to sue” letter.
(Dkt. No. 12-1 at 1.) Plaintiff filed his civil action within the ninety-day deadline when the

1 discriminated against him on the basis of race, color, religion, national origin, or sex or
2 provides any other basis for relief under Title VII. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
3 544, 555 (2007). Plaintiff has not complied with the Court's deadlines to file an amended
4 complaint curing the deficiencies. The Court DISMISSES Plaintiff's action with prejudice for
5 failure to state a claim on which relief can be granted. 28 U.S.C. § 1915(e)(2)(B)(ii). The Court
6 directs the Clerk to send copies of this Order to Plaintiff and Magistrate Judge Tsuchida.

7 DATED this 15th day of February 2010.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

27 Court applies the three-day mail rule. *See Payan v. Aramark Mgmt. Servs. Ltd. P'ship*, 495
28 F.3d 1119, 1125 (9th Cir. 2007). Nonetheless, Plaintiff did not comply with the Court's
29 previous orders to timely file an amended complaint, and the current complaint does not
30 sufficiently allege a Title VII violation.